

**TOWN OF ROCKY HILL
PLANNING AND ZONING COMMISSION
MEETING OF MAY 21, 2014**

CALL TO ORDER

Chairman Desai called the Wednesday, May 21, 2014, meeting to order at 6:45 p.m. in the Town Council Room, Rocky Hill Town Hall, 761 Old Main Street, Rocky Hill, Connecticut.

Present: Dimple Desai, Chairman
Kevin Clements, Vice Chairman
Victor Zarrilli, Secretary
Giuseppe Aglieco, Commissioner

Alternates: William O'Sullivan

Also: Kimberley A. Ricci, Dir. Planning & Building/Asst. ZEO
Eileen A. Knapp, Recording Secretary

Vice Chairman Clements made a MOTION for a 2-minute recess. Seconded by Commissioner Zarrilli. All were in favor, MOTION CARRIED UNANIMOUSLY.

Vice Chairman Clements made a MOTION to come out of recess. Seconded by Commissioner Zarrilli. All were in favor, MOTION CARRIED UNANIMOUSLY.

1. CONTINUATION OF PUBLIC HEARINGS

A. Subdivision Application, Valentine Builder, LLC, proposing to divide approximately 6.52 acres of land into 9 residential building lots and to extend Southbrook Road by approximately 370 lineal feet, for property located at 3149 Main Street in a R-20 Residential Zoning District, ID# 17-284;

Chairman Desai recused himself for this application. Commissioner O'Sullivan sat in his place.

Mr. Jim Cassidy, Professional Engineer and Principal with Hallisey, Pearson and Cassidy, 35 Cold Spring Road addressed the Commission representing the applicant. At the last meeting the Commission made a motion to keep the public hearing open in order to wait for a decision to be made by the Open Space and Wetlands Commission. The Open Space Commission approved the application at their last meeting. The Commission also had some questions about an alternative to sidewalks along Main Street. Mr. Cassidy contacted the DOT to see if they would allow that area of Main Street to be widened about 4' to accommodate a bike path. Mr. Cassidy said the representative he spoke to, Mr. Kevin Campbell said he could not formally review the request until the Planning and Zoning Commission has approved the project, but he indicated that unless there is an active plan for a bike path throughout the Town they would not approve a bike path in this area. Mr. Cassidy said the Wetlands Commission included a condition in their

approval that sidewalks not be part of the project because there would be too much impact in the wetlands. He said what they are proposing instead is to pay a fee for the waiver of sidewalks in the amount of \$11,500. The Town could then use this money to put sidewalks in other areas of Town where they are needed.

Ms. Ricci said Commissioner's received a copy of the Open Space and Wetlands Commission decision for this application including the conditions imposed, one being that no sidewalks be installed along Main Street due to wetlands impacts.

Public Comment

Ms. Krista Mariner of 58 Farms Village Road addressed the Commission to ask for more clarification about the future status of the tree line on the western side of the property. Mr. Cassidy said the final plan has been revised to move the swale back 10-15' from what was originally proposed in order to preserve the trees. This leaves a 20-25' buffer in that area for the protection of the trees.

Mr. Barry Goldberg of 78 Highview Drive addressed the Commission. He is an abutter to the site and wanted to remind the Commission to include documentation on the land records of both the abutters and the homes on the western side of the site regarding the swale and conservation easement along the western property line. He questioned how the developer arrived at the amount of money being offered to the Town in lieu of sidewalks. Mrs. Ricci noted that there is a Town Ordinance, Chapter 212, Section 19 that addresses sidewalk waivers fees. The fee is to be established by the Director of Engineering and Highways.

Mr. Cassidy said they would work with the Town Engineer to come up with an appropriate amount. This fund is intended for the Sidewalk Improvement Program, not for this site at some point in the future.

Commissioner Comments/Questions

Commissioner Aglieco asked if Mr. Cassidy talked to the DOT about the curb cut along Main Street. Mr. Cassidy said he did talk to them about the curb cut that is there and when the State eventually paves Main Street it will remain the way it is now, matching what is presently there.

Commissioner O'Sullivan asked if the plan includes deed restrictions that will be enforceable by the Town and the abutters to maintain the swales. Mr. Cassidy said it does.

A MOTION was made by Commissioner Zarrilli to close the public hearing for Subdivision Application, Valentine Builder, LLC, proposing to divide approximately 6.52 acres of land into 9 residential building lots and to extend Southbrook Road by approximately 370 lineal feet, for property located at 3149 Main Street in a R-20 Residential Zoning District. Seconded by Commissioner D'Agostino. All were in favor, MOTION CARRIED UNANIMOUSLY. (Commissioner O'Sullivan voted in place of Chairman Desai, who recused himself for this application.)

B. Special Permit/Site Plan Modification, Richard W. Vicino, proposing changes to the mixed use development Town Center West, total building area approximately 126, 793 square feet (144, one and two bedroom residential units, 6, 500 sq. ft. restaurant, 82,070 sq. ft. mixed commercial uses – retail, office, restaurant) for property located on the southeasterly corner of Cromwell Avenue and West Street in a C-Commercial Zoning District; ID# 16-267 and #16-268; (Recessed for receipt of an updated traffic study taking into account the change of use to a residential component, presentation, public question/comments, Commission questions)

Chairman Desai rejoined the Commission.

Mr. Jim Cassidy, Professional Engineer and Principal with Hallisey, Pearson and Cassidy, 35 Cold Spring Road addressed the Commission representing the applicant. The public hearing was left open last meeting so that the Commission could receive a Traffic Study. Mr. Cassidy said the Traffic Study was done and completed today, so the Commission just received it tonight. In order to make it easier to understand he created a chart showing levels of service with the original plan compared to the levels of service occurring with the new plan. Mr. Cassidy noted that when they run the numbers for traffic with the newly proposed residential component the traffic generation is cut in half and it drastically improves the levels of service along West Street. The level of service opposite Modern Tire operates at a level B during the worst scenario. The intersection of West Street, Corporate Drive and their access drive improves from a level of service D at the worst scenario to a level of service B at all times. With the new proposal almost all levels of service have improved.

Public Comment

Ms. Krista Mariner of 58 Farms Village Road addressed the Commission and distributed handout to the Commissioners with her comments and questions regarding application. She was curious about the grade of the driveway onto West Street and whether or not it conforms to Town Regulations. She said at a recent meeting of the Public Safety Sub Committee of the Town Council, the Police Chief stated that the intersection of West Street and Cromwell Avenue is a hot spot for traffic accidents due to the unbelievable volume of traffic on Route 3. Now, with the changes to the application the West Street exit will be designated for residents only and all other traffic heading to the site will have to go to the already congested West Street/Cromwell Avenue intersection. Included in her correspondence, Ms. Mariner had a list of questions addressing her traffic concerns, including:

1. What is the accident date for the intersection of Cromwell Avenue and West Street?
2. Are any traffic improvements planned for that intersection?
3. What will the levels of service be for the intersection at the entrance on Cromwell Avenue?
4. How much of Town Center West traffic will be pass-by traffic?
5. What will the traffic counts/levels of service be at West Street and Corporate Place and the I91 southbound and northbound ramps?
6. How many feet is the entrance and exit to I91 from the West Street entrance?

7. How many cars can queue at the location between I91 and the entrance to the site?
8. Will the extreme right-turn lane onto the southbound exit from I91 be limited to “no turn on red”?
9. Will there be a left-turn signal at the intersection of West Street and the entrance into Town Center West?
10. How many cars can queue between the light at the entrance to Town Center West and West Side Market and is it adequate?

Ms. Mariner wondered if there were any plans to reconfigure the signals at all the intersections in the area. He asked that the Commission take another look at the parking to make sure it is adequate for the residential portion of the development. She feels the changes to the plan will only result in more problems for the intersection of Cromwell Avenue and West Street.

Mr. Cassidy said they did go through the CRCOG Study and incorporate suggestions into their plan from that Study. They are addressing the timing of the signals. The levels of service at the exit and entrance ramps of I91 are improved. There is about 320' from the exit of I91 to the site drive and they will be adding a dedicated left turn lane into their site. As far as parking, Mr. Cassidy said they meet and exceed the requirements of the Regulations for the residential portion. If for some reason they need additional parking they will be allowed to use the retail parking area. As far as improvements with the traffic light system in the area, they do have to go before the State Traffic Commission (OSTA) and it is ultimately up to them as to what improvements will be necessary. There is 410' between the new traffic light at Modern Tire and West Side Market, allowing for about 350' for queuing.

Mrs. Ricci said there were two reports received from Mr. Barry Goldberg, The Economic Impact of Home Building in Connecticut and The Local Impact of Home Building in a Typical Metropolitan Area. Also a letter was received from Mr. Don Francis, Chairman of the Rocky Hill Redevelopment Agency stating that he misspoke at the last meeting when he stated that the Redevelopment Agency made a motion to approve the development. There wasn't an actual vote, but they did agree by consensus. **Mr. Richard Vicino of 2360 Main Street** said they did vote in favor of the application at their last meeting. Ms. Mariner presented the minutes from the Redevelopment Agency's meeting of May 13, 2014 and a copy of the legal notice.

Commissioner Comments/Questions

Commissioner Aglieco said the application for Cumberland Farms included changes to the traffic light at the intersection of France Street and he wondered how these changes would affect what is being proposed in this project. Mr. Cassidy said they need to incorporate whatever changes are being made in the Cumberland Farms Application into the Town Center West plans. If a project is completed and OSTA decides it doesn't function as proposed, the developer is responsible for any additional improvements necessary.

Chairman Desai said he is happy that the Applicant submitted the Traffic Study but he feels it is unfair that it was submitted on the night of the public hearing. The public and the Commission don't have the opportunity to review the information prior to the meeting. All information

should be submitted before the meeting. Mr. Cassidy said they weren't sure they could even have it done for this meeting and it was just completed today.

A MOTION was made by Vice Chairman Clements to close the public hearing for Special Permit/Site Plan Modification, Richard W. Vicino, proposing changes to the mixed use development Town Center West, total building area approximately 126, 793 square feet (144, one and two bedroom residential units, 6, 500 sq. ft. restaurant, 82,070 sq. ft. mixed commercial uses – retail, office, restaurant) for property located on the southeasterly corner of Cromwell Avenue and West Street in a C-Commercial Zoning District. Seconded by Commissioner Zarrilli. All were in favor, MOTION CARRIED UNANIMOUSLY.

C. Proposed Zoning Regulation Amendments, Town of Rocky Hill, proposing to modify Rocky Hill Zoning Regulations, Section 2.2 Defined Terms, as follows:

1. DELETE:

“COMMERCIAL VEHICLE: *Any motor vehicle with a commercial vehicle, livery, taxi or commercial trailer vehicle registration and identified by insignia and/or materials stored within or carried upon to be used for commercial purposes.”*

“VEHICLE,COMMERCIAL: *Any motor vehicle with commercial license plates or with lettering, markings, racks, or other apparent accessories indicating it is intended for use other than personal and/or recreational transportation.”*

2. ADD: In Section 2.2 Definitions

Gross Vehicle Weight Rating: GVWR is defined by the manufacturer of the vehicle,

Commercial Vehicle: Any vehicle or equipment regularly used to carry, deliver, handle or move goods in the conduct of a business, commerce, profession or trade, and which has two or more of the following characteristics:

1. Exceeds (gross vehicle weight rating) GVWR of nine thousand pounds (9,000);
2. Exceeds seven (7) feet in height from the base of the vehicle to the top;
3. Exceeds twenty (20) feet in length;
4. has more than two (2) axles;
5. Has more than four (4) tires in contact with the ground;
6. Used, designed and built to carry more the eight (8) passengers;
7. Designed to sell food or merchandise from the vehicle or trailer itself;
8. Banners, signs, logos, advertising or markings identifying the owner or registrant, a trade, business, service or commodity;
9. Has modifications such as but not limited to platform rack, ladder rack, or mechanical equipment such as a hoist used to facilitate the carrying of goods or equipment;
10. Commercial plate or registration

Commercial Vehicles used on a farm for activities associated with that farm, and which are not in violation of any other Town Regulation and/or Town Ordinance, are exempt from the definition of Commercial Vehicle.

The following types of vehicles when regularly used to carry, deliver, handle or move goods in the conduct of business, commerce, profession or trade shall be considered commercial vehicles: step vans, cargo vans, box trucks, flat bed or stake bed trucks, buses semitrailers, tractor trailers dump trucks wreckers and trailers for commercial purposes. The following types of equipment shall also be considered commercial vehicles: earth moving equipment, cement mixers trenching and pipe laying equipment and other similar type of contractors/construction/site work equipment.

Mrs. Ricci said at the last meeting some residents were concerned that the wording of the proposed change did not exempt farms. In response they have changed the wording to address these concerns. A letter was received from Dan Bodea of 8 Tedwin Farms Road. Mr. Bodea is a Remodeling Contractor and he himself has several trucks that are over the weight limit. He doesn't think residents should be penalized for owning these vehicles and made to incur additional costs of renting space to store their work vehicles. He asked that the Commission consider all of the working people in Town before making their decision.

Public Comment

None.

Commissioner Comments/Questions

Commissioner Zarrilli was concerned that the proposed Regulations do not address ownership of the vehicles. Without this issue being addressed, someone could store their vehicles on someone else's property that has an exemption, for example, a farmer's property.

There was a discussion how this change might affect other parts of the Regulations. Mrs. Ricci said if any other part of the Regulations needs to be corrected so they are in harmony with this proposed change, that would require another public hearing. Residents are able to apply for a special permit in order to keep their vehicles on their property. Letters were received from the Lower River Connecticut Valley Regional Planning Commission and the Capital Region Council of Governments approving the proposed changes.

A MOTION was made by Commissioner Zarrilli to close the public hearing for Proposed Zoning Regulation Amendments, Town of Rocky Hill, proposing to modify Rocky Hill Zoning Regulations, Section 2.2 Defined Terms as stated above. Seconded by Commissioner D'Agostino. All were in favor, MOTION CARRIED UNANIMOUSLY.

D. Proposed Zoning Regulation Amendments, Town of Rocky Hill, proposing to add to the Rocky Hill Zoning Regulations, Section 3.4.8 as follows: 3.4.8 A single temporary structure, including membrane structures, no larger than 200 sq. ft. will be allowed on a Residentially Zoned Property for no more than 6 months in any 12 month period. Temporary structure permits shall be obtained from the Planning and Zoning Department. Section 3.4.8 is not applicable to farms, either existing as of the effective date of this Regulation and/or possible future farms as defined by the Zoning Regulations.

Mrs. Ricci said she spoke to and received a letter from Maryann Matway who is opposed to this proposed Regulation change, which she feels will regulate and severely limit residential property owner's right to erect a temporary structure. If passed she believes this will cause residents undue hardship. She and her husband would like to store their RV under one of these structures and it is unrealistic to expect them to put it up for 6 months, take it down and put it up 6 months later. The allowable 200' structure is not big enough to cover an RV. She feels the Town has enough regulations and this serves no purpose. She wonders what the reasoning is for this proposed change.

Mr. Barry Goldberg, Regulatory Land Use Consultant addressed the Commission. He said the operative word in the change is "temporary", meaning less than one year. If there is a need for a temporary structure he doesn't have a problem with the Regulation, but temporary structures should not be put up for years at a time.

Commissioner Questions and Comments

Commissioner Aglieco asked if temporary meant the structure is not on a foundation. Mrs. Ricci said not necessarily because a shed may not have a foundation but it is not considered temporary. They are considering this regulation change primarily to address membrane structures. If you want to put up a structure larger than 200 sq. ft. and/or longer than the 6 month period, you would have to go before the Zoning Board of Appeals for a variance.

Vice Chairman Clements asked if, when proposing this definition, they considered putting a limit on the length of time someone could get for a permit for this type of structure. Mrs. Ricci said there is a 6 month limit, and after that they would need a variance from ZBA. She noted that variances do run with the land.

Commissioner O'Sullivan asked if the reason for this proposed change is more than just for aesthetic reasons. Mrs. Ricci said if the membrane structures are not properly secured they can collapse or blow loose in strong winds. Commissioner O'Sullivan said he is concerned about the lack of precision in defining what constitutes a temporary structure. He suggested more work on the wording to "tighten up" the definition.

A MOTION was made by Commissioner Zarrilli to recess the public hearing in order to acquire a definition of temporary for Proposed Zoning Regulation Amendments, Town of Rocky Hill, proposing to add to the Rocky Hill Zoning Regulations, Section 3.4.8 as stated above. Seconded by Commissioner D'Agostino. All were in favor, MOTION CARRIED UNANIMOUSLY.

2. PUBLIC HEARING

A. Special Permit Application, Officina Cucina, proposing to sell alcoholic beverages under a Restaurant Liquor Permit with a Patio License also, for an already approved restaurant location

at 2399 Main Street in a C-Commercial Zoning District, ID # 10-082; (To be rescheduled to June 4, 2014 at 6:30p.m.)

A MOTION was made by Commissioner Zarrilli to recess the public hearing for Special Permit Application, Officina Cucina, proposing to sell alcoholic beverages under a Restaurant Liquor Permit with a Patio License also, for an already approved restaurant location at 2399 Main Street in a C-Commercial Zoning District, ID # 10-082 until the June 4th meeting at 6:30 p.m. Seconded by Commissioner Aglieco. All were in favor, MOTION CARRIED UNANIMOUSLY.

B. Special Permit Application/Change of Use, Truck Toyz Unlimited LLC, proposing to operate an automotive repair (aftermarket accessories) shop in a 3,800 square foot warehouse building at property located at 950- Rear Cromwell Avenue (behind #950) in a C-Commercial Zoning District; ID # 16-263;

Ms. Monica Milazzi and Mr. Richard Vellar of 129 Brook Street, Glastonbury addressed the Commission. They are asking for a special permit for a change of use to construct a showroom and installation bay for after-market accessories for vehicles. In order to install these accessories they are required to have a DMV general repair license although they are not a repair facility. In order to put an aftershock on a vehicle you need to have this license. Mr. Vellar submitted a packet explaining more about the business and what they do. He noted that they are very involved in the community in which they are located and hold annual fundraisers for local charities.

Mr. Vellar said they received approval from the Zoning Board of Appeals last night and he went over the reasons he feels this application meets the Special Permit Criteria. They are an aftermarket accessory company that installs everything they sell. They don't do general repair work or paint any vehicles on site. This type of work is outsourced to other businesses. They try to maintain a great relationship with the community and feel the size and location is suitable for their business. They believe they are providing an added service to the Town. They do not generate much business from drive-by traffic. They will be improving the aesthetics of the building once approved by painting the facility and maintain the landscape. All work is done indoors and Mr. Vellar said they don't anticipate any health or public safety issues. This business will not generate a lot of traffic and will not affect traffic conditions should remain the same. Their business will not impact emergency services. There is sufficient parking for their operations. Mr. Vellar said they feel this location will help maintain their viability.

Public Comment

None.

Commissioner Comments/Question

Commissioner D'Agostino asked if the oil tank is required. Mr. Vellar said it is required as part of the repair certificate but they do not do oil changes and it rarely gets used. Commissioner

D'Agostino asked about the signage. Mr. Vellar said the signage has not been finalized yet. They may be putting in a pylon sign along Cromwell Avenue and he would like to eventually put a sign on top of the roof so it can be seen from the highway.

Vice Chairman Clements asked how long cars remain on site and if they have adequate storage space to keep the vehicles on site. Mr. Vellar said cars come in and may stay outside one night until they are worked on the next day. Cars are usually picked up right away because customers are excited to get them back. Vice Chairman Clements asked how many cars can be stored in the facility. Mr. Vellar said up to 5 cars. Cars are not stored outdoors, unless they are waiting for them to be picked up. Vice Chairman Clements asked if they do any painting of the vehicles. Mr. Vellar said all the painting is outsourced to other businesses.

Commissioner Zarrilli asked if there would be handicap accessible entrance and parking space. Mr. Vellar said right now there is only one step into the building and the garage bays are at grade level but they would be willing to put in a ramp if needed. They will add a handicap parking spaced.

Commissioner Aglieco asked if there would be multiple dumpsters for the disposal of materials. Mr. Vellar said they plan to have 2 dumpsters behind the building. One dumpster would be for scrap materials and the other would be for normal waste material. The old tires are removed as new tire deliveries come in. They will not be stockpiling material outside the building. Commissioner Aglieco asked if they would be doing car detailing on site. Mr. Vellar said they do not do detailing. Commissioner Aglieco asked if the Fire Department has signed off on this application. Mrs. Ricci said the Zoning Enforcement Officer, who serves as the Deputy Fire Marshall has signed off on the application.

Chairman Desai said he doesn't see the dumpster location or outside storage location on the plans. Mr. Vellar said it is shown on the map behind the building. Chairman Desai asked why they need the oil retention tank on site. Mr. Vellar said that is required by the Department of Motor Vehicles in order to have the repair license. He again stated that they would not be doing oil changes on site.

A MOTION was made by Commissioner Zarrilli to close the public hearing for Special Permit Application/Change of Use, Truck Toyz Unlimited LLC, proposing to operate an automotive repair (aftermarket accessories) shop in a 3,800 square foot warehouse building at property located at 950- Rear Cromwell Avenue (behind #950) in a C-Commercial Zoning District; ID # 16-263. Seconded by Vice Chairman Clements. All were in favor, MOTION CARRIED UNANIMOUSLY.

A MOTION was made by Commissioner Zarrilli for a 5-minute recess. Seconded by Vice Chairman Clements. All were in favor, MOTION CARRIED UNANIMOUSLY.

A MOTION was made by Commissioner Zarrilli to come out of recess. Seconded by Vice Chairman Clements. All were in favor, MOTION CARRIED UNANIMOUSLY.

3. CALL TO ORDER

Chairman Desai called the regular meeting to order.

4. PUBLIC

Ms. Krista Mariner of 58 Farms Village Road asked if the Town Planner could update the Commission and public on the progress on the Plan of Conservation and Development update.

Mr. Tom Cardini of 10 Dogwood Court, which is part of the Ridge at Elm development, addressed the Commission regarding the Executive Session meeting that was held earlier in the night regarding the Elm Street Extension Medical Building Project. He read a letter he sent to Attorney Borea in February regarding this application and the concerns of the residents who live at the Ridge at Elm. Mr. Cardini said they have an aging community and many residents have health problems. They feel the construction of this project would interfere with the access and egress from their property. Elm Street Extension is a very short steep road with a large amount of traffic. They feel the additional traffic from this medical building could create more traffic that the street could safely accommodate. Residents are afraid the additional traffic would endanger lives. In the past 3 years there have been 24 accidents at the intersection of Elm Street and Route 3, nine have resulted in injuries. Mrs. Ricci noted that if this application were to come before the Commission this letter would have to be resubmitted.

5. ADOPT THE AGENDA

A MOTION was made by Vice Chairman Clements to adopt the Agenda. Seconded by Commissioner Zarrilli. All were in favor, MOTION CARRIED UNANIMOUSLY.

6. CONSENT AGENDA

A MOTION was made by Vice Chairman Clements to approve the Consent Agenda. Seconded by Commissioner Zarrilli. All were in favor, MOTION CARRIED UNANIMOUSLY. The following items were approved on the Consent Agenda:

A. Approve of Minutes and Working Notes April 16, 2014

B. Approve of Minutes and Working Notes May 7, 2014 Special Meeting;

C. Set a Public Hearing Date for June 4, 2014 beginning immediately following a previously scheduled Hearing which is to begin at 6:30p.m.: Resubdivision Application. Judith Bordieri, proposing to create one residential building lot of approximately 0.555 acres for property on the west side of Hayes Road from land now or formerly owned by The Estate of Anne Hayes in a R-20 Residential Zoning District; ID# 08-535

6. AGENDA ITEMS

A. Special Permit/Site Plan Modification, The Metropolitan District, Attn. Alan Pelletier, for proposed upgrades and additions to the Rocky Hill Water Pollution Control Facility located at 80 Goff Brook Lane in an A- Agriculture Zoning District; ID# 01-015;

Mrs. Ricci said this public hearing was closed at the last meeting. The ZBA Commission did grant a number of variances for this application.

A MOTION was made by Vice Chairman Clements to approve the Special Permit/Site Plan Modification, The Metropolitan District, Attn. Alan Pelletier, for proposed upgrades and additions to the Rocky Hill Water Pollution Control Facility located at 80 Goff Brook Lane in an A- Agriculture Zoning District; with the condition that any new lighting will conform to current Town Regulations. Seconded by Commissioner Zarrilli. All were in favor, MOTION CARRIED UNANIMOUSLY.

B. Request to allow live music as an accessory use to a seasonal food establishment, Jenna Cavalieri, at ShadRow located at 277 Meadow Road in a WF - Waterfront Zoning District; ID # 10-321;

Ms. Jenna Cavalieri addressed the Commission. She is the new owner of the restaurant at 277 Meadow Road and is asking for a permit to have live music at this location on the weekends.

Mrs. Ricci said the use of the site for a temporary seasonal restaurant has going on for years and has been considered to be a legal non-conforming use. This site is currently in Waterfront Zone. According to Section 7.1.4, any modifications that significantly change the non-conforming use would require a special permit by the Commission.

Commissioner Comments/Questions

Vice Chairman Clements asked if this would be year round or seasonal. Mr. Cavalieri said it would be seasonal, from May through October. Ms. Ricci noted that the Applicant has been notified of several violations, one being a free-standing sign without a permit and the other being the unpermitted location of 4-5 tables by the water. Mrs. Cavalieri has since submitted a request for a permit for the free-standing sign. She said she has spoken to the property owner about the tables but he has not removed them. Vice Chairman Clements asked about hours of operation for the restaurant. Ms. Cavalieri said they are closed on Mondays, Tuesdays and Wednesdays they are open from 11-4 and Thursday through Sunday they are open from 11 to 7 or 8 o'clock. They may stay open later during the summer.

Commissioner Zarrilli wondered how the fact that the Owner has a violation on the property would affect whether or not they allow this request. Mrs. Ricci said the Town has an issue with the property owner and the Applicant is caught in the middle. She said in her capacity as Assistant Zoning Enforcement Officer, she asked that those tables be removed and they were not removed, although the restaurant did open. Cease and desist orders will be mailed tomorrow to the property owner.

Commissioner O'Sullivan asked if there are any residents that live close by. Ms. Cavalieri said there are several houses in the vicinity.

Chairman Desai asked about the seating capacity. Ms. Cavalieri said they have 5 tables on the main deck and four additional tables in another area. Chairman Desai asked if the cease and desist order is issued would the restaurant have to close. Mrs. Ricci said if the tables are not removed that would be considered an expansion of the restaurant and the restaurant would need to get a permit for an expansion.

Public

Mr. Barry Goldberg addressed the Commission and said Zoning deals with the property owners and not the tenants. He said the Property Owner should be here to represent the Tenant not the other way around. He also said because there is no special permit this is a non-conforming use and he doesn't think music is considered a "customary use" in a restaurant. He believes the addition of the music would intensify the use of the existing non-conforming use. Ms. Cavalieri said she is not here today to represent the Owner; she is just representing herself as owner of the restaurant.

Ms. Christina Palmer, Executive Director for the Rocky Hill Chamber of Commerce addressed the Commission in favor of the application. She said she believes the company in charge of setting up the music at this location will operate in an appropriate manner. She believes this will be an asset to the community.

Mr. Jim Zagroba of 263 Meadow Road addressed the Commission. He lives two doors down from the restaurant and also owns the property directly across the street from this location. He said he is in favor of outdoor music in the proper location and this is not the proper location. His tenants bedrooms are only 20-30' away from where they are proposing the entertainment. None of the previous restaurant owners played outdoor music and he is afraid it would interfere with abutting residents' quality of life. There have been many prior violations at this site over the years. Mr. Zagroba submitted details of the history he has had with the property owner over the last 10 years. Vice Chairman Clements didn't feel this information is relevant to the application being presented. Mr. Zagroba said he thinks the details of the request are too vague. Commissioner Zarrilli said they should accept Mr. Zagroba's submission but ignore anything not having to do with this application.

Ms. Krista Mariner of 58 Farms Village Road said she feels the owner of the property should be present. She hopes the Commission will read Mr. Zagroba's submission, especially the very detailed zoning analysis. She doesn't see where the Regulations would permit music at this location.

Commissioner Aglieco asked if the music would be amplified. Ms. Cavalieri said she believes it would mainly be acoustics. Mr. Tom Velardo of Palmer Entertainment said they use a soft p.a. system to provide background music.

Ms. Ricci suggested that the applicant may want to apply for a special permit for the restaurant use and music.

A MOTION was made by Vice Chairman Clements to deny without prejudice the application for Request to allow live music as an accessory use to a seasonal food establishment, Jenna Cavalieri, at ShadRow located at 273 Meadow Road in a WF - Waterfront Zoning District. Seconded by Commissioner Zarrilli. Vice Chairman Clements said he is in favor with the idea but is concerned about the neighboring property owners. He would like to see a more specific business plan. Commissioner Zarrilli asked if any other business has outdoor music similar to what is being requested. Mrs. Ricci said there is a golf course that has outdoor music that was approved as an accessory use. Chairman Desai also thought the property owner should be present. Commissioner Zarrilli said he thinks the denial without prejudice is protection for the tenant and her business. Commissioner Aglieco said the Owner needs to clarify a lot of issues going on with the property. Commissioner D'Agostino said denying the application without prejudice would allow the applicant to straighten out the outstanding issues on the property. Chairman Desai said Rocky Hill welcomes new businesses and they are trying to make the best decision for the applicant. **All were in favor, MOTION CARRIED UNANIMOUSLY.**

C. Subdivision Application, Valentine Builder, LLC, proposing to divide approximately 6.52 acres of land into 9 residential building lots and to extend Southbrook Road by approximately 370 lineal feet, for property located at 3149 Main Street in a R-20 Residential Zoning District, ID# 17-284;

Chairman Desai recused himself for this application. Vice Chairman Clements took over as Acting Chair for this application.

A MOTION was made by Commissioner Zarrilli to approve the Subdivision Application, Valentine Builder, LLC, proposing to divide approximately 6.52 acres of land into 9 residential building lots and to extend Southbrook Road by approximately 370 lineal feet, for property located at 3149 Main Street in a R-20 Residential Zoning District with the following conditions:

- 1. That no construction vehicles be stored on Southbrook Road during the process.**
- 2. That restrictive covenants be filed with the Town as agreed to by the Applicant regarding the swale on the western properties of the subdivision.**
- 3. That the waiver of the sidewalks along Main Street be granted in lieu of depositing money into a Town Sidewalk Fund in an amount determined by Staff.**

Motion seconded by Commissioner Zarrilli. Commissioner Aglieco said he would like to see sidewalks on Main Street for the sake of continuity. Commissioner O'Sullivan said he is generally a proponent of sidewalks but this site presents challenges as far as impacts to the wetlands and maintenance by the homeowners. The applicant suggested that with future development along Southbrook Road, there could be sidewalks connecting back to Main Street.

He feels the applicant addressed the Commission's concerns to the best of his ability. Commissioner Zarrilli said he is also usually in favor of sidewalks and he is afraid of setting a precedent by allowing the developer to waive the sidewalks along Main Street. He feels in this case, the fee in lieu of the sidewalks would be a benefit to the Town. Mrs. Ricci noted that the Open Space and Wetlands Commission asked that the sidewalks be waived due to the impact to the wetlands and for the Planning and Zoning Commission to require them would result in a "catch 22" for the applicant. Vice Chairman Clements said he thinks the application met the requirements of the Town Regulations and the added conditions of the approval address the concerns of the Commission. **4 were in favor (Clements, D'Agostino, O'Sullivan, Zarrilli), one opposed (Aglieco), MOTION CARRIED (Commissioner O'Sullivan voted for Chairman Desai, who recused himself for this application.)**

D. Special Permit/Site Plan Modification, Richard W. Vicino, proposing changes to the mixed use development Town Center West, total building area approximately 126, 793 square feet (144, one and two bedroom residential units, 6, 500 sq. ft. restaurant, 82,070 sq. ft. mixed commercial uses – retail, office, restaurant) for property located on the southeasterly corner of Cromwell Avenue and West Street in a C-Commercial Zoning District; ID# 16-267 and #16-268;

Chairman Desai rejoins the Commission.

A MOTION was made by Commissioner D'Agostino to approve the Special Permit/Site Plan Modification, Richard W. Vicino, proposing changes to the mixed use development Town Center West, total building area approximately 126, 793 square feet (144, one and two bedroom residential units, 6, 500 sq. ft. restaurant, 82,070 sq. ft. mixed commercial uses – retail, office, restaurant) for property located on the southeasterly corner of Cromwell Avenue and West Street in a C-Commercial Zoning District. Seconded by Commissioner Aglieco. Commissioner D'Agostino said he thinks the project is good for the Town and conforms to the Regulations. Commissioners Aglieco and Zarrilli agreed. Commissioner Zarrilli thinks it is a better application that what was originally presented due to the decrease in traffic generation. Vice Chairman Clements said he isn't "crazy" about the residential portion of the development. He is concerned with Rocky Hill's saturation with apartment buildings but he sees the traffic conditions will improve with this change. Commissioner Zarrilli said he thinks the addition of the residential aspect creates a better balance than what was previously approved. Chairman Desai said he likes the proposal and he believes the Applicant complied with all the requirements of the special permit. All were in favor, MOTION CARRIED UNANIMOUSLY.

E. Special Permit Application/Change of Use, Truck Toyz Unlimited LLC, proposing to operate an automotive repair (aftermarket accessories) shop in a 3,800 square foot warehouse building at property located at 950- Rear Cromwell Avenue (behind #950) in a C-Commercial Zoning District; ID # 16-263;

A MOTION was made by Commissioner Aglieco to approve the Special Permit Application/Change of Use, Truck Toyz Unlimited LLC, proposing to operate an

automotive repair (aftermarket accessories) shop in a 3,800 square foot warehouse building at property located at 950- Rear Cromwell Avenue (behind #950) in a C-Commercial Zoning District. Seconded by Commissioner Clement. Commissioner Desai was concerned about making sure that this use doesn't change into something other than what was presented. Mrs. Ricci said the ZBA land use form addresses what the permit allows even though they are obtaining a repairer's license. **All were in favor, MOTION CARRIED UNANIMOUSLY.**

A FRIENDLY AMENDMENT was made by Commissioner Zarrilli that:

- 1. No more than 10 cubic yards of solid waste be kept on site at one time.**
- 2. A handicap space be added to the plan**
- 3. No oil changes or auto body painting be allowed on site**

FRIENDLY AMENDMENT accepted.

F. Proposed Zoning Regulation Amendments, Town of Rocky Hill, proposing modifications to Section 2.2, to delete "Commercial Vehicle" and Vehicle, Commercial" and add, "Gross Vehicle weight Rating, and Commercial Vehicle" as aforementioned in Item 1 A ;

A MOTION was made by Commissioner Zarrilli to approve the Proposed Zoning Regulation Amendments, Town of Rocky Hill, proposing to modify Rocky Hill Zoning Regulations, Section 2.2 Defined Terms, as follows with the condition that the commercial vehicle must be owned or operated by the resident of the dwelling:

1. DELETE:

"COMMERCIAL VEHICLE: Any motor vehicle with a commercial vehicle, livery, taxi or commercial trailer vehicle registration and identified by insignia and/or materials stored within or carried upon to be used for commercial purposes."

"VEHICLE,COMMERCIAL: Any motor vehicle with commercial license plates or with lettering, markings, racks, or other apparent accessories indicating it is intended for use other than personal and/or recreational transportation."

2. ADD: In Section 2.2 Definitions

Gross Vehicle Weight Rating: GVWR is defined by the manufacturer of the vehicle,

Commercial Vehicle: Any vehicle or equipment regularly used to carry, deliver, handle or move goods in the conduct of a business, commerce, profession or trade, and which has two or more of the following characteristics:

- 1. Exceeds (gross vehicle weight rating) GVWR of nine thousand pounds (9,000);**
- 2. Exceeds seven (7) feet in height from the base of the vehicle to the top;**
- 3. Exceeds twenty (20) feet in length;**
- 4. has more than two (2) axles;**
- 5. Has more than four (4) tires in contact with the ground;**
- 6. Used, designed and built to carry more the eight (8) passengers;**
- 7. Designed to sell food or merchandise from the vehicle or trailer itself;**

8. Banners, signs, logos, advertising or markings identifying the owner or registrant, a trade, business, service or commodity;

9. Has modifications such as but not limited to platform rack, ladder rack, or mechanical equipment such as a hoist used to facilitate the carrying of goods or equipment;

10. Commercial plate or registration

Commercial Vehicles used on a farm for activities associated with that farm, and which are not in violation of any other Town Regulation and/or Town Ordinance, are exempt from the definition of Commercial Vehicle.

The following types of vehicles when regularly used to carry, deliver, handle or move goods in the conduct of business, commerce, profession or trade shall be considered commercial vehicles: step vans, cargo vans, box trucks, flat bed or stake bed trucks, buses semitrailers, tractor trailers dump trucks wreckers and trailers for commercial purposes. The following types of equipment shall also be considered commercial vehicles: earth moving equipment, cement mixers trenching and pipe laying equipment and other similar type of contractors/construction/site work equipment.

Commissioner Zarrilli said he is open to suggestions about where to place his condition in the Regulations. Commissioner O'Sullivan said they are only able to consider the definition of a "commercial vehicle" and not Section 6.3.3. Mrs. Ricci said if they want to change any other Section of the Regulations, they would have to hold a public hearing. **Commissioner Zarrilli withdrew his condition. Seconded by Vice Chairman Clements. All were in favor, MOTION CARRIED UNANIMOUSLY.**

G. Proposed Zoning Regulation Amendment, Town of Rocky Hill, proposing to add Section 3.4.8 to the Rocky Hill Zoning Regulations about temporary structures as aforementioned in Item 1 B;

No action taken. This public hearing was recessed.

7. ANY OTHER BUSINESS

A. Discussion of Budget 2014/2015

Mrs. Ricci said the budget was approved on Monday but the request for an additional \$50,000 for the Plan of Conservation and Development Update was denied. Staff was not allowed to speak at the meeting. There is still \$50,000 available from previous years. Mrs. Ricci contacted Planametrics who assisted with the current POCD. The plan for the update of the POCD process must be completed by July 1, 2015. An ad for assistance with the POCD update has been posted on Planner's List Serve and she has received some responses. She is hoping to receive proposals in the next week or so.

Chairman Desai said they should start working on the POCD update concentrating on each section that needs to be addressed. Commissioner Zarrilli suggested asking the UConn Law School students for assistance. Mrs. Ricci said she would check with the Professor. She reminded the Commission that the Zoning Board of Appeals wanted to hold a joint meeting to

discuss LED signs. She sent the UConn Law Student's presentation on LED signs to them, along with Scott Smith, a business owner who is also interested in signage regulations. The Commission agreed to set aside the first Wednesday of the month to work on the POCD update.

8. COMMUNICATIONS

A letter was received from Town Attorney, Morris Borea reminding the Commission that they need to deal with the medical marijuana issue in Town with respect to dispensaries. He forwarded to the Commission a memorandum that was prepared by Corporation Counsel for the Town of West Hartford that addressed the issues.

9. APPROVE BILLS

None.

10. ADJOURN

A MOTION was made by Commissioner Zarrilli to adjourn the meeting. Seconded by Commissioner D'Agostino. All were in favor, MOTION CARRIED UNANIMOUSLY.

Meeting adjourned at 10:30 p.m.

Respectfully submitted,

Eileen A. Knapp
Recording Secretary